

AMENDED IN ASSEMBLY APRIL 28, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2460

Introduced by Assembly Member Ammiano

February 19, 2010

An act to add Section 11376.5 to the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 2460, as amended, Ammiano. Controlled substances: overdose: punishment.

Existing law, the California Uniform Controlled Substances Act, classifies controlled substances into 5 designated schedules, with the most restrictive limitations generally placed on controlled substances classified in Schedule I, and the least restrictive limitations generally placed on controlled substances classified in Schedule V. Existing law generally provides punishment for the unauthorized use, possession, and sale of controlled substances.

This bill would provide that it shall not be a crime for any person who experiences a drug- or alcohol-related overdose who, in good faith, seeks medical assistance, or any other person who, in good faith, seeks medical assistance for the person experiencing a drug- or alcohol-related overdose, to be under the influence of, or ~~in possession of, or to furnish, deliver, or share~~ *to possess for personal use*, a controlled substance, controlled substance analog, alcohol, or drug paraphernalia, under certain circumstances related to a drug- or alcohol-related overdose that prompted the seeking of medical assistance. The bill would provide

that its provisions shall not affect laws prohibiting the selling, providing, giving, or exchanging of drugs or alcohol for money, goods, or services, or laws prohibiting the forcible administration of drugs or alcohol against a person's will. *The bill would provide that it shall not affect liability for any offense that involves activities made dangerous by the consumption of controlled substances or alcohol, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Drug overdose is the second leading cause of injury death
4 in the United States, behind only motor vehicle accidents and ahead
5 of firearms. California has the greatest number of overdose deaths
6 in the country per year. Moreover, drug and alcohol overdose
7 morbidity and mortality are not confined to adults but also
8 devastate California's youth.

9 (b) The State Department of Alcohol and Drug Programs
10 reported that there were 3,102 overdose deaths in 2002, the first
11 year the department began tracking overdose deaths in California.
12 By 2006, the number of overdose deaths had grown to 3,646.

13 (c) Many overdose fatalities occur because peers delay or forgo
14 calling 911 or seeking emergency assistance for fear of arrest or
15 police involvement, which researchers continually identify as the
16 most significant barrier to the ideal first response of calling
17 emergency services. Furthermore, if criminal punishment is
18 intended to deter drug abuse, it is clearly too late to deter such
19 abuse when a person is already suffering from an overdose.

20 (d) It is the intent of the Legislature to encourage a witness of
21 a drug- or alcohol-related overdose to call 911 or seek other
22 emergency assistance in a timely manner in order to save the life
23 of an overdose victim by establishing a state policy exempting
24 drug possession or drug paraphernalia possession from criminal
25 prosecution in situations involving medical emergencies.

26 (e) It is not the intent of the Legislature to protect individuals
27 from prosecution for other offenses, or to interfere with law
28 enforcement protocols to secure the scene of an overdose.

1 SEC. 2. Section 11376.5 is added to the Health and Safety
2 Code, to read:

3 11376.5. (a) Notwithstanding any other law, it shall not be a
4 crime for a person to be under the influence of, ~~or in possession~~
5 ~~of, or to furnish, deliver, or share~~ *or to possess for personal use*,
6 a controlled substance, controlled substance analog, alcohol, or
7 drug paraphernalia, if that person, in good faith, seeks medical
8 assistance for another person experiencing a drug- or
9 alcohol-related overdose that is related to the possession,
10 furnishing, delivering, or sharing of a controlled substance,
11 controlled substance analog, alcohol, or drug paraphernalia of the
12 person seeking medical assistance.

13 (b) Notwithstanding any other law, it shall not be a crime for a
14 person who experiences a drug- or alcohol-related overdose and
15 who is in need of medical assistance to be under the influence of,
16 ~~possess, furnish, deliver, or share~~ *or to possess for personal use*,
17 a controlled substance, controlled substance analog, alcohol, or
18 drug paraphernalia if the person or one or more other persons at
19 the scene of the overdose, in good faith, seek medical assistance
20 for the person experiencing the overdose.

21 (c) This section shall not affect laws prohibiting the selling,
22 providing, giving, or exchanging of drugs or alcohol for money,
23 goods, or services, or laws prohibiting the forcible administration
24 of drugs or alcohol against a person's will.

25 (d) *Nothing in this section shall affect liability for any offense*
26 *that involves activities made dangerous by the consumption of a*
27 *controlled substance, controlled substance analog, or alcohol,*
28 *including, but not limited to, violations of Section 23103 of the*
29 *Vehicle Code as specified in Section 23103.5 of the Vehicle Code,*
30 *or violations of Section 23152 or 23153 of the Vehicle Code.*